

REMARKS

This Amendment is filed in response to the Official Action dated May 22, 2006. The shortened statutory period for filing a response having expired August 22, 2006, Applicant submits herewith a two-month extension petition to reset the deadline for responding to the Official Action to and including October 23, 2006. In view of the following amendments and remarks, reconsideration of the Examiner's rejections and notice of allowance of all pending claims is respectfully requested.

Prior to this amendment, claims 1-47 were pending in the present application. By way of restriction, claims 1-27 were elected for prosecution leaving claims 28-47 subject to withdrawal. Applicant has withdrawn claims 28-47 herein.

Applicant acknowledges with appreciation the Examiner's indication that the application includes patentable subject matter. Specifically, the Examiner has indicated that claims 6, 7, and 19 are objected to as depending from rejected base claims, but would be allowable if rewritten in independent form to include all of the limitations of their respective base claim and any intervening claims.

Applicant has presented the features of former claim 6 in independent form as new claim 48. Applicant has also presented the features of former claim 7 as new claim 49, which depends from new claim 48. Finally, Applicant has presented new claim 50 which includes each of the features of former claim 19 in independent form. It is believed that each of these new claims, namely claims 48-50, are therefore presented in a condition for allowance.

The Examiner rejected claims 23 and 24 under 35 U.S.C. § 112 for failing to provide antecedent basis for the term "indicia" in claim 23 and phrase "reference marks" in claim 24. Applicant has amended claim 23 to depend from claim 22 rather than claim 21. Claim 22 includes proper antecedent basis for

"indicia." Likewise, Applicant has amended claim 24 to depend from claim 23 rather than claim 22. Claim 23 includes proper antecedent basis for the phrase "reference marks." It is believed that such amendments overcome the Examiner's § 112 rejections with respect to claims 23 and 24.

The Examiner also rejected claims 1-5, 8-18, and 20-27 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,363,491 issued to George ("George"). Of claims 1-5, 8-18, and 20-27, claims 1, 20, 21, and 27 are independent claims. Claims 4-5 and 8-18 ultimately depend from claim 1. Claims 22-26 ultimately depend from claim 21. No presently pending claims depend from claims 20 or 27.

Each of the independent claims, namely claims 1, 20, 21, and 27, generally require a spinal implant cutting apparatus which includes removable or detachable means for supporting a spinal implant within a frame or the apparatus. Such means are disclosed in claim 1, for example, as a mandrel. In the Examiner's view, the George reference discloses each of the claimed features of the rejected claims.

Former claim 4 featured a detachable mandrel for the purpose of permitting loading and removal of the spinal implant. The mechanism required for attachment and detachment of the mandrel is necessarily complex. Nevertheless, the Examiner contends that the George mandrel (identified as element 12) is inherently detachable from the apparatus. Applicant respectfully disagrees.

The George reference has no disclosure of a detachable mandrel. Indeed, element 12, although annotated, is not discussed in the detailed description at all, let alone as being detachable. The George disclosure therefore has no specific teaching of the actual structure or modifications to the structure required to facilitate a detachable mandrel. In

truth, the George reference fails to even consider the desirability of a detachable mandrel.

The failure to consider a detachable mandrel in the disclosure of George is completely understandable. In, for example, claim 4 of the present invention, the mandrel is detachable *to permit loading and removal of the spinal implant*. Inclusion of a detachable (or removable) mandrel is not necessary in George because the piece to be cut may be placed in the lathe and then clamped in place by action of the stock advance 152 and lock 154. As the George disclosure already has a mechanism for loading and unloading the material to be cut, it cannot be said that a detachable mandrel, specifically for that purpose, is inherent. Accordingly, it is firmly believed that the feature of a detachable mandrel to permit loading and removal of the spinal implant is patentable over the George reference.

Applicant has amended independent claim 1 to include such a feature. Applicant has also cancelled claim 4, the claim where that feature was originally found. Claim 20 already features a "means for supporting a spinal implant removably mounted to the frame." Claim 21 has been amended to include the feature of mandrel detachability and claim 27 already features a removable mandrel. Based on the inclusion of detachability or removability of the mandrel or supporting means, it is firmly believed that each of claims 1, 20, 21, and 27 are in a condition for allowance.

It is also believed that each of the claims which depend from claims 1 and 21 are in conditions for allowance, at least by way of their dependence from claims 1 or 21. Nevertheless, it is also believed that such claims include patentable features in their own rights.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

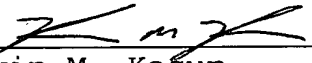
If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 23, 2006

Respectfully submitted,

By


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